IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 9423 of 2004

Between:

Pinnamaraju Rangaraju S/o. Suraparaju
r/o. Dumpagadapa (V), Akividu (M),
W.G.Dist.

..... PETITIONER

AND

1 Asst. Commissioner of Endowments,
Eluru W.G.Dist.
2 Sri Varadaraja Swamy Temple Dumpagadapa, rep.by its Chairman

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more in the nature of Writ of Mandamus directing the respondent-1 to consider the claim of the petitioner U/Sec. 82 of the A.P.Endowments Act, 1987 and pass appropriate orders on the representation of the petitioner declaring the inaction of the 1st respondent in not passing orders on the claim petition of the petitioner is highly arbitrary illegal and contrary to sec. 82 of the A.P.Endowments Act, 1987.

Counsel for the Petitioner:MR.C.RAMACHANDRA RAJU

Counsel for Respondent No.1: GP FOR ENDOWMENTS

Counsel for Respondent No.2: Mrs.N.Indrani, S.C. for Endowments Temple

The Court made the following Order:

Heard both the learned counsel and at their request, the writ petition itself is taken up for final disposal at the stage of Interlocutory Application.

Petitioner claims to be the tenant, filed this writ petition, inter alia, seeking to assail the action of the respondents in not considering his case under Section 82 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987.

The main grievance of the petitioner is that on earlier occasion, this Court has given directions in Writ Petition No. 9989 of 2003 dated 27-5-2003 for considering the petitioner's case subject to filing representation. Accordingly, the petitioner filed the representation on 24-6-2003 and the same was remained unconsidered. However, in the counter affidavit filed by the respondents, it is stated that the said representation has already been rejected as per the orders dated 2-7-2003.

Considering the submissions made on either side and going through the material on record, it is seen that the order dated 2-7-2003 passed in pursuance of the representation of the petitioner dated 24-6-2003 reads as follows:

> "The attention of the Trustee of the subject temple is invited to the representation of the tenant in the reference first cited, wherein he has informed that he will purchase the land/continue in the land as sitting tenant in Ac.5.21 cents under R.S.No.25/3.
>
> In view of the circumstances explained by the Chairman of the subject temple the request of the tenant was rejected. Further the Chairman of the subject temple is requested to take action for leasing out the following lands in public auction for a period of three years as per rules."

On the face of the above order, apart from lacunas in it, it does not contain any reason as to the fact that the petitioner is not entitled to the lease as claimed by him. Admittedly, no notice was given nor any enquiry was conducted in his presence. In the circumstances, the matter requires fresh consideration.

Accordingly, the writ petition is allowed and the order in RC.No.A2/5811/2003 Administration, dated 02-07-2003 passed by the first respondent is hereby set aside. The first respondent is directed to pass fresh orders, within a period of one week from the date of receipt of a copy of this order, on its own merits and in accordance with law, after giving notice and opportunity to both the parties.

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30-09-2004

kdl/stv

To

1. The Asst. Commissioner of Endowments, Eluru W.G.Dist.
2. The Chairman, Sri Varadaraja Swamy Temple, Dumpagadapa, West Godavari District.
3. Two C.Cs. to the Government Pleader for Endowments, High Court

Buildings, Andhra Pradesh, Hyderabad, (OUT).

3 Two C.D. Copies.